

REMARKS

I. Status of Claims

Claims 1-47 are currently pending. Claims 1-5, 8-16, 19-24, and 27-47 have been allowed. Claims 6, 7, 17, 18, 25, 26, 36, and 37 stand rejected. Without prejudice or disclaimer, claims 6, 25, and 26 are amended to further clarify the scope of the numerical ranges contained therein. Claim 17 is amended to recite the term “wherein.” Support for these amendments may be found in the as-filed specification and claims. Accordingly, no new matter has been added.

Applicants respectfully acknowledge the withdrawal of the prior rejection under 35 U.S.C. § 102(e) over U.S. Patent No. 6,113,925 to de la Poterie, in view of the Declaration under 37 C.F.R. § 1.132, filed November 15, 2007. In the Office Action, the Examiner indicates that claims 1-5, 8-16, 19-24, 27-35, and 36-47 are allowed. Office Action at 3. Applicants acknowledge and appreciate the Examiner’s indication of this allowable subject matter. Applicants respectfully submit that all claims are allowable for at least the following reasons.

II. Rejection Under 35 U.S.C. § 112

The Examiner rejects claims 6, 7, 17, 18, 25, 26, 36, and 37 under 35 U.S.C. § 112, second paragraph, as allegedly being “indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.” Office Action at 2. In particular, the Examiner contends that the claims contain the phrases “less than about” or “greater than about” when “describing ‘glass transition temperature,’ ‘a loss of gloss,’ [or] ‘molecular mass’ of the coupler and the film-forming polymer.” *Id.*

at 2-3. The Examiner states that “[i]t is unclear to the examiner if it is ‘less than,’ ‘greater than’ or ‘about’ are the intended values.” *Id.* at 3. Applicants respectfully traverse. When determining a claim’s definiteness in compliance with 35 U.S.C. § 112, second paragraph, the Examiner’s focus should be whether the claim meets “the threshold requirements of clarity and precision, not whether more suitable language or modes of expression are available.” M.P.E.P. § 2173.02

Applicants respectfully point out to the Examiner that none of the claims at issue contain the word “about.” Moreover, with respect to claims 7, 17, 18, 36, and 37, Applicants respectfully submit that those claims contain clear statements of the intended values. Claim 7 recites “an additional glass transition temperature ranging from 10°C to 100°C,” which clearly states a range and does not contain the phrases “less than,” “greater than,” or “about” as asserted by the Examiner. Likewise, claim 37 recites “a number-average molecular weight ranging from 10,000 to 150,000.” Claim 17 recites a nail varnish composition “capable of forming a film having a loss of gloss . . . of less than or equal to 10%.” Claim 18 recites a nail varnish composition “capable of forming a film having a loss of gloss . . . of less than 6%.” Claim 36 recites “a number-average molecular weight of less than or equal to 300,000.” Applicants respectfully submit that the use of phrase “less than or equal to” a value or simply “less than” a value clearly indicates the value being claimed.

Applicants also respectfully submit that claims 6, 25, and 26 contain clear statements of the intended values. However, solely in order to further prosecution, Applicants amend claim 6 to recite that the film-forming polymer “has an additional glass transition temperature ranging from greater than 0°C to less than or equal to 150°C.”

Claim 25 is amended to recite that the coupler "has a molecular mass ranging from greater than or equal to 50 to less than 500," and claim 26 is amended to recite that the coupler "has a molecular mass ranging from greater than or equal to 75 to less than 500." Applicants submit that these amendments render the rejection for alleged indefiniteness moot and respectfully request that the rejection be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

If the Examiner believes a telephone conference could be useful in resolving any of the outstanding issues, he is respectfully urged to contact Applicants' undersigned counsel at 202-408-4368.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: April 9, 2008

By: Deborah M. Herzfeld
Deborah M. Herzfeld
Reg. No. 52,211